

## COMPARISON OF UNEMPLOYMENT COMPENSATION PROPOSALS

	CURRENT LAW	H-3009.4	H-3189.2
<b>Construction</b>	<b>RCW 50.01.010</b> “ Directs that the Employment Security Act be liberally construed to reduce involuntary unemployment to the minimum.	<b>Section 1</b> “ Deletes direction that the Act be liberally construed.  <b>Effective</b> “ Immediately.	Same as current law.
<b>Initial Eligibility</b>	<b>RCW 50.04.030</b> “ Requires a claimant to have 680 hours of covered employment in his or her base year.	<b>Section 2</b> “ In addition to 680 hours, the claimant must have total wages in the base year that are at least twice the highest quarter wages.  <b>Section 8</b> “ An individual who received benefits in the same quarter for two consecutive years is not eligible in the corresponding quarter for the next two years.  <b>Applicable</b> “ July 6, 2003.	<b>Section 1</b> “ In addition to 680 hours, the claimant must have earned wages in two quarters of the base year.  <b>Applicable</b> “ January 1, 2004.
<b>Continuing Eligibility</b>	<b>RCW 50.20.010</b> “ Requires claimants to be physically able to work, available for work, and actively seeking "suitable work." In most circumstances, "suitable work" is full-time work, and claimants must contact at least 3 employers each week.	<b>Section 3</b> “ Requires most claimants to make at least 4 job search contacts per week.  <b>Applicable</b> “ July 6, 2003.	<b>Section 6</b> “ Same as current law, except that an individual may not be denied benefits because he or she is seeking part-time work of at least 15 hours per week.  <b>Applicable</b> “ July 1, 2003.

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Job Search Monitoring	<p><b>RCW 50.20.240</b> “ <i>Requires the Employment Security Department to monitor the job search efforts of persons who have received five or more weeks of benefits.</i></p>	<p><b>Section 9</b> “ Requires the Department to verify that all claimants who have received benefits have also provided evidence of seeking work.</p> <p>Disqualifies from benefits a claimant who knowingly gives false information or withholds material information for 10 weeks and until he or she earns 10 times his weekly benefit amount in covered employment.</p> <p><b>Applicable</b> “ July 6, 2003.</p> <p><b>Section 21</b> “ Requires the commissioner, upon receiving notification from a claimant’s base year employer that work is available, to notify the claimant that the work is available and to direct the claimant to contact the employer.</p> <p><b>Effective</b> “ Immediately.</p>	<p><b>Section 8</b> “ Authorizes the Department, during extended benefit periods, to suspend job search monitoring activities and shift funding and staff to eligibility determination and benefit payment activities.</p> <p><b>Applicable</b> “ July 1, 2003.</p>

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<b>Voluntary Quits</b>	<p><b>RCW 50.20.050</b> “ Disqualifies a claimant from receiving benefits for voluntarily quitting work without good cause.</p> <p>Specifies that the following voluntary quits do not disqualify a claimant from receiving benefits:</p> <ol style="list-style-type: none"> <li>1. Leaving to accept other work</li> <li>2. Illness or disability, after taking precautions to preserve employment status with the employer</li> <li>3. Leaving work to relocate for the spouse’s employment</li> <li>4. Domestic violence</li> <li>5. Other work related factors determined by the Commissioner, such as risk to health or safety, ability to perform the work, certain changes in travel time, and substantial involuntary deterioration of the work factor</li> </ol>	<p><b>Section 4</b> “ Limits voluntary quits that do not disqualify an individual from receiving benefits to the following:</p> <ol style="list-style-type: none"> <li>6. Leaving to accept other work</li> <li>7. Reduction of 25% or more in compensation or hours</li> <li>8. Change in work site that causes increased distance or difficulty of travel</li> <li>9. Deterioration of work site safety</li> <li>10. Change in usual work that violates the individual’s religious convictions or sincere beliefs</li> <li>11. Illness or disability, so long as the claimant is not entitled to reinstatement</li> <li>12. Domestic violence</li> </ol> <p>Places the burden of proving that he or she is not disqualified on the claimant, and requires that these provisions, except reason 7, be liberally construed in favor of the employer.</p> <p><b>Applicable</b> “ July 6, 2003.</p>	Same as current law.

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<b>Misconduct</b>	<p><b>RCW 50.04.293</b> “ Defines "misconduct" as an act or failure to act in willful disregard of the employer's interest where the effect is to harm the employer's business.</p> <p><b>RCW 50.20.060</b> “ If discharged for misconduct, the individual is disqualified for 7 weeks and until he or she earns 7 times his or her weekly benefit amount.</p> <p><b>RCW 50.20.065</b> “ If discharged for a felony or gross misdemeanor, the individual loses his or her wage credits from that employment.</p>	<p><b>Section 5</b> “ Defines "misconduct" as willful acts or omissions in connection with an employee's job performance, and lists examples of misconduct.</p> <p>Defines "gross misconduct" as felonies, gross misdemeanors, and dishonest acts in connection with an employee's work, and lists examples of gross misconduct.</p> <p><b>Section 6</b> “ Provides that an individual who is discharged for misconduct is disqualified for 10 weeks and until he or she earns 10 times his or her weekly benefit amount.</p> <p><b>Section 7</b> “ Provides that an individual who is discharged for gross misconduct has his or her wage credits cancelled and is disqualified throughout his or her benefit year.</p> <p><b>Applicable</b> “ July 6, 2003.</p>	<p><b>Section 3</b> “ Defines gross misconduct– as a felony or gross misdemeanor that is connected with the employee's work which results in harm to the employer's business.</p> <p><b>Section 4</b> “ Provides that an individual who is discharged for gross misconduct has all wage credits based on that employment or 680 hours of wage credits, whichever is greater, cancelled.</p> <p><b>Applicable</b> “ July 1, 2003.</p>
<b>Incarceration</b>	Generally disqualifies an individual who is incarcerated from receiving benefits because he/she is not available for work.	Same as current law.	<p><b>Section 5</b> “ Explicitly disqualifies an individual for benefits for any day during which the individual is incarcerated.</p> <p><b>Applicable</b> “ July 1, 2003.</p>

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<b>Notice of Disqualifying Information</b>	Allows employers and employees to report new information on appeal.	Same as current law.	<p><b>Section 7 “</b> Requires employers that have information which might disqualify an individual for benefits to report such information to the Department within 10 days of receiving notice that an individual has filed an initial claim.</p> <p>Provides that the individual may not be disqualified based on the information for a claim period compensated before the information is received, and that the individual has a rebuttable presumption of eligibility for claim periods after the information is received.</p> <p><b>Applicable “</b> July 1, 2003.</p>

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<b>Maximum Weekly Benefit Amount</b>	<p><b>RCW 50.20.120 - .125</b> “ Provides that the maximum weekly benefit amount is 70% of the average weekly wage, except that:</p> <p>13. From July 1, 2002, through June 30, 2004, the maximum WBA is frozen at \$496; and</p> <p>14. From July 1, 2004, through June 30, 2010, the growth rate in the maximum WBA is capped at 4%.</p>	<p><b>Section 10</b> “ Provides that the maximum weekly benefit amount is to be calculated as follows:</p> <p>15. The Department must calculate a national cost average and a state cost average per employee.</p> <p>16. If the national average is more than twice the state average, the maximum weekly benefit will not change from the previous year.</p> <p>17. If the national average is equal to or less than the state average, the maximum weekly benefit will be 70% of the state average weekly wage as specified in current law.</p> <p><b>Applicable</b> “ July 6, 2003.</p>	<p><b>Section 2</b> “ Reduces the maximum weekly benefit amount to \$496 or <b>66</b> % of the state average weekly wage, whichever is greater.</p> <p>Creates a dependent allowance of \$10 per dependent per week up to a total of \$30 per week. Provides that the sum of the weekly benefit amount and the weekly dependent allowance must not exceed the maximum weekly benefit amount.</p> <p><b>Applicable</b> “ July 1, 2004.</p>
<b>Maximum Benefits Payable (Duration)</b>	<p><b>RCW 50.20.120</b> “ Provides that the total amount of benefits potentially payable is the lesser of 30 times the weekly benefit amount, or 1/3 of the total gross wages in all four quarters of the base year.</p>	<p>Same as current law.</p>	<p><b>Section 2</b> “ Reduces the maximum benefit payable to the lesser of 26 times the weekly benefit amount or 1/3 of the total gross wages in all four quarters of the base year.</p> <p><b>Applicable</b> “ July 4, 2004.</p>

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<b>Qualified Employers</b>	<p><b>RCW 50.29.025</b> “ <i>Determines contributions based on:</i></p> <p>18. <i>The tax schedule in effect (AA through F depending on the balance in the trust fund); and</i></p> <p>19. <i>An employer’s placement, in order of benefit ratios, in an array with 20 rate classes, each having 5% of payroll.</i></p> <p><i>The system is experience rated, but several factors result in some costs being socialized to all employers:</i></p> <p>20. <i>Some benefits are not charged to employer’s experience rating accounts by statute.</i></p> <p>21. <i>Some employers pay at contribution rates that are lower than their benefit ratios.</i></p> <p>22. <i>Benefits cannot be charged to employers whose accounts are closed because of bankruptcy or other similar factors.</i></p>	<p><b>Section 11</b> “ Creates a new tax array with 40 rate classes. Employers are assigned one of the 40 rate classes based on the employer’s benefit ratio. Qualified employer rates are the sum of two separate rates:</p> <p>23. The <u>array calculation factor</u> rate is determined by the rate class and ranges from 0.0% in rate class 1 to 5.4% in rate class 40.</p> <p>24. The <u>graduated social cost factor</u> rate is determined by calculating the flat social cost factor rate and providing for a graduated social cost factor that ranges from 78% to 120% of the flat social cost factor depending on the rate class.</p> <p>25. Repeals the insolvency surcharge enacted in 2002.</p> <p><b>Applicable</b> “ January 1, 2005.</p>	<p><b>Section 10</b> “ Similar to current law except that:</p> <p>26. The fund balance ratio intervals that determine the effective tax schedule are decreased by .04 for AA through B.</p> <p>27. The schedule in effect in 2004 may not be higher than B.</p> <p>28. Beginning with rate year 2004, rates in the tax array are modified as follows:</p> <p>1. The percentage rates are increased in certain classes.</p> <p>2. Rate class 20 is divided into 5 subclasses, 20A through 20E, with rates increased to result in a range of rates from 5.4 to 6.0%. Assignment to subclasses is based on an employer’s benefit ratio.</p> <p>3. The maximum rate is increased from 5.4% to a rate from 5.7 to 6.0% depending on the tax schedule in effect.</p>

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<b>Nonqualified Employers</b>	<p><b>RCW 50.29.025</b> “ Provides that employers with less than two years experience or who are delinquent in paying contributions are not qualified to be in the array.</p> <p>„ For new employers, the contribution rate is the industry average rate, but not less than 1%.</p> <p>„ For delinquent employers, the contribution rate is 5.6%.</p>	<p><b>Section 11</b> “ Provides that the contribution rate of an employer not qualified to be in the array is the sum of two separate factors:</p> <p>„ For new employers, the array calculation factor is the average industry rate plus 15%, but not more than 5.4% (the rate in rate class 40). The graduated social cost rate is the average industry rate plus 15%, but not more than the rate assigned to rate class 40.</p> <p>„ For delinquent employers, the array calculation factor rate is 5.6% (two-tenths higher than the rate in rate class 40) and the graduated social cost rate is the same rate as the rate assigned to rate class 40.</p>	<p><b>Section 10</b> “ Same as current law except that:</p> <p>„ For new employers, the contribution rate is the industry average rate plus 15%, but not less than 1% or more than the top rate.</p> <p><b>Applicable</b> “ January 1, 2004.</p>



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Successor Employers	<p><b>RCW 50.29.062</b> “ Provides that, until qualifying in its own right, a successor employer pays contributions at the lower of the rate of the predecessor employer’s rate class or the new employer rate.</p>	<p><b>Section 14</b> “ Provides that a successor employer who has substantial continuity of ownership and management of the predecessor’s business is not permitted to use the new employer rate. Instead, such a successor employer must pay at the rate assigned to the predecessor employer, and will have the experience of the predecessor employer transferred to the successor as part of its array calculation factor rate beginning in January following the transfer.</p> <p><b>Applicable</b> “ January 1, 2005.</p>	<p><b>Section 11</b> - Provides that:</p> <p>„ The successor must pay at the rate class contribution rate of the predecessor employer (and will not have an option to pay at the new employer rate) for the remainder of the year. Beginning on the next January, the rate is based on the successor’s experience from the date of transfer.</p> <p>„ A successor employer who has substantial continuity of ownership and management of the predecessor’s business is not permitted to use the new employer rate. Instead, the successor must pay at the rate determined for the predecessor employer until the successor becomes a "qualified" employer.</p> <p><b>Applicable</b> “ January 4, 2004.</p>

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<b>Taxable Wage Base</b>	<p><b>RCW 50.04.355</b> “ Caps the taxable wage base at 80% of the average annual wage.</p> <p>Specifies that "wages", for purposes of the taxable wage base, are determined by averaging wage data from the three years prior to the calculation.</p>	<p><b>Section 12</b> “ Specifies that "wages" are determined based on wage data from the previous year (rather than by averaging wage data from the three years prior to the calculation).</p>	<p>Same as current law.</p>
<b>Experience Rating and Noncharging</b>	<p><b>RCW 50.29.020</b> “ Requires that benefits paid to claimants be charged pro rata to the experience rating accounts of all base year employers, unless there is a statutory exemption.</p> <p>Specifies that certain benefits are not charged, including benefits paid to claimants found to be marginally attached to the labor force.</p>	<p><b>Section 16</b> “ Specifies that benefits paid to claimants who separated from employment for the following reasons be charged to the experience rating account of only the separating employer:</p> <ul style="list-style-type: none"> <li>11. Leave to accept other work</li> <li>12. Reduction of 25% or more in compensation or hours</li> <li>13. Change in work site that causes increased distance or difficulty of travel</li> <li>14. Deterioration of work site safety</li> <li>15. Change in usual work that violates the individual’s religious convictions or sincere beliefs.</li> </ul> <p>Eliminates the identification of, and noncharging of benefits paid to, claimants who are marginally attached to the labor force.</p>	<p><b>Section 9</b> “ Specifies that benefits paid to claimants who separated from employment for the following reasons be charged to the experience rating account of only the separating employer:</p> <ul style="list-style-type: none"> <li>„ Leave to accept other work.</li> <li>„ Other work related factors determined by the Commissioner.</li> </ul> <p><b>Applicable</b> “ January 4, 2004.</p>

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<b>Penalties</b>	<p><b>RCW 50.12.220</b> - Penalizes an employer who fails to file a timely and complete quarterly unemployment tax report a minimum of \$10 per violation.</p> <p>Assesses specified penalties as a percent of the amount that is delinquent for the first, second, and third month of delinquency.</p>	Same as current law.	<p><b>Section 12</b> “ Establishes the following penalties for certain delinquencies:</p> <p>„ If due to fraud or an intent to evade or defeat contributions, the penalty is 50% of the amount of the contributions.</p> <p>„ If due to an intent to evade the successorship provisions, the penalty is the assignment of the maximum tax rate for 5 quarters.</p> <p><b>Applicable</b> “ July 1, 2003.</p>
<b>Uses of Funds</b>	<p><b>RCW 50.16.010, .014, .015, and .190</b> “ Specifies that the unemployment trust fund may not be used for purposes other than paying benefits and repaying federal loans.</p>	<p><b>Sections 17 - 20</b> “ Specifies that various funds in the unemployment insurance system must be used solely for unemployment insurance purposes.</p> <p>Requires the Department, in consultation with a business-labor advisory committee, to identify programs funded with special administrative contributions. Also requires the Department to report to the advisory committee and the Legislature on expenditures for these programs annually and cumulatively.</p>	Same as current law.

	<b>CURRENT LAW</b>	<b>H-3009.4</b>	<b>H-3189.2</b>
<b>Industry Classifications</b>	<p>Requires the Commissioner to assign employers to an industrial classification for various purposes, such as assigning a new employer rate.</p> <p>Permits the Commissioner to use the Standard Industrial Classification (SIC) or the North American Industry Classification System (NAICS). (The NAICS is a new code that was developed jointly by the United States, Canada, and Mexico to replace the SIC system.)</p>	Same as current law.	Deletes references to the Standard Industrial Classification Code.

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